

April 4, 2016

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U.S. Environmental Protection Agency, Region 10  
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Sheila Fleming, P.E.  
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Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 10  
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1200 6th Avenue ETPA-124  
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**Re: Lower Willamette Group  
Freedom of Information Act Request  
Request No. EPA-R10-2016-004597  
Portland Harbor Superfund Site**

Dear Ms. Cora and Ms. Fleming,

Thank you for your March 24, 2016 letter (EPA Letter) seeking clarification of the Lower Willamette Group's (LWG) pending March 9, 2016 request for agency records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552.<sup>1</sup> EPA Letter, 1. As you are aware, the LWG's request concerns United States Environmental Protection Agency (EPA) records related to the Portland Harbor Superfund Site (Site) in Oregon. *Id.*, Attachment (Original LWG FOIA Request). In addition to the requested clarification, we understand that you are also seeking assurance of the LWG's ability and intention to pay estimated costs of \$7,500.00, and that your letter is intended to serve as a notification of "unusual circumstances" as that phrase is defined by 5 U.S.C. § 552(a)(6)(B). *Id.* at 2. We are pleased to provide you with the following reply to your response.

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<sup>1</sup> As explained previously, the March 9 request was submitted on behalf of the LWG and each individual LWG member. Those members are named in the original request.

## I. Clarification

### A. General Request for Specificity

Your letter seeks a number of specific clarifications of the LWG's original request, but it also appears to seek unspecified revisions that would identify the records sought by the LWG with more "particular specificity." *Id.* at 1. According to your letter, the LWG's "request as written, at least in part, does not reasonably describe the records you are seeking[.]" *Id.* Other than the specific clarifications sought later in your letter, you do not identify the "part" of the LWG's request that supposedly fails to "reasonably describe" the records sought. *See id.*

As a general matter, the LWG believes that its original request "reasonably describes" the records requested for purposes of the FOIA. 5 U.S.C. § 552(a)(3)(A); *see also* 40 C.F.R. § 2.102(c). For example, although your letter suggests "clarifying that [the LWG's] request is for correspondence with any specifically identified organizations(s) or individuals," the original request, where seeking correspondence, does just that. *Compare* EPA Letter at 1 with Original LWG FOIA Request at 3-4, ¶¶ 6, 9. Your letter also states that the LWG should identify the records it seeks by "date, title or name, author, recipient, and subject matter." EPA Letter at 1 (quoting 40 C.F.R. § 2.102(c)). Yet the LWG's original request does identify records by date (e.g., "[f]rom March 2012 to the date of this FOIA request"), author and recipient (e.g., the NRRB, EPA consultants, etc.), and subject matter (e.g., development of Remedial Action Levels, or quantification of dredging production rates). *See generally* Original LWG FOIA Request. It is difficult for the LWG to provide more specifics about individual records within the ambit of its request when it does not possess those records, particularly when you have not identified the portion of the LWG's request that you believe is insufficiently descriptive.

Still, at a minimum, the LWG's FOIA request should be construed as seeking records drafted or created by, and records sent or provided to, the following specific individuals and entities: EPA and EPA Region 10 staff assigned to the Site or responsible for reviewing actions related to the Site; outside consultants or contractors hired by EPA and EPA Region 10 to perform work related to the Site; the Oregon Department of Environmental Quality, Oregon Department of State Lands, U.S. Army Corps of Engineers, and any other federal or state agency; the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of Siletz Indians of Oregon, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe; the NRRB and CSTAG; the Portland Harbor Community Advisory Group, Willamette Riverkeeper, and any other community or environmental organization; and the staff, agents, counsel, consultants, and other representatives of these entities. This clarification is intended to assist EPA in its search, but it is not necessarily intended to limit the LWG's FOIA request to records concerning these individuals and entities. All records responsive to the LWG's request should and must still be provided by the agency.

We note that, as discussed in more detail below, the LWG has previously endeavored to adjust its FOIA request and work with EPA to lessen the agency's burden in responding to the request. EPA has rejected those efforts. The LWG therefore sees no merit in providing a blanket revision of its FOIA request, or eliminating whole portions of the request, in response to the non-specific concerns discussed in your letter. The LWG has made specific revisions and clarifications to its request in a further good-faith attempt to work with EPA and resolve or mitigate the agency's concerns. A revised request is attached to this letter as **Attachment A**.

## **B. Individual Requests for Clarification**

Your letter asks the LWG to clarify specific portions of its original FOIA request. We now provide the following responses to those individual clarification requests:

### *Days Encompassed by "March 2012"*

In a good-faith effort to cabin the temporal scope of its overall request, the LWG limited seven of its nine individual queries to records dated from "March 2012 to the date of this FOIA request." *Id.* at 2-3. In your letter, you state that you do not know whether this temporal limitation begins on March 1, 2012, or "some other date in March." EPA Letter at 1. The LWG hereby clarifies that its prior reference to "March 2012" was intended to encompass the period after submission of the LWG draft Feasibility Study on March 30, 2012. **Attachment A** reflects this clarification.

### *Request No. 1*

Your letter asks the LWG to clarify subpart (5) of its first request. *Id.* Subpart (5) of Request No. 1 is clarified in **Attachment A**.

### *Request No. 2*

Your letter asks the LWG to clarify several aspects of Request No. 2. *Id.* Request No. 2 is clarified in **Attachment A**.

### *Request No. 3*

Your letter does not seek clarification of Request No. 3. *See id.* at 2. Instead, you assert that Request No. 3 "appears" to be seeking "conclusions rather than records" and that Request No. 3 is therefore "not a proper FOIA request." *Id.* The LWG disagrees. Request No. 3 specifically asks for "all EPA Region 10 and Headquarters records relating to EPA Region 10's or its consultants' consideration, evaluation, or use of risk management principles during the development of the FS." Original LWG FOIA Request at 2 (emphasis added). This is a proper FOIA request because it seeks agency records. 5 U.S.C. § 552(a)(3)(A); *see also* 40 C.F.R. § 2.101(a) ("You may request records . . .") (emphasis added). The request does not ask EPA to create documents that do not exist. *See Yeager v. Drug Enforcement Admin.*, 678 F.2d 315, 321

(D.C. Cir. 1982). It does not ask EPA to “answer questions.” *See Adams v. F.B.I.*, 572 F. Supp. 2d 65, 68 (D.D.C. 2008). If EPA believed that the request was unclear, you were entitled to ask for clarification in your March 23, 2016 letter. 5 U.S.C. § 552(a)(6)(A)(ii); 40 C.F.R. § 2.102(c). If EPA cannot find responsive records after a reasonable search, it may say so. 5 U.S.C. § 552(a)(6)(A)(i); 40 C.F.R. § 2.104(g). If EPA possesses responsive records that it believes to be exempt from disclosure under the FOIA, the agency may identify the relevant statutory exemption(s) and explain the basis for withholding the responsive records. 5 U.S.C. § 552(a)(7)(b). As far as research discloses, however, the LWG is unaware of any statutory basis upon which EPA can either decline to respond, or delay its response, to an express request for agency “records” by simply claiming that the request “is not a proper FOIA request.”

Nonetheless, the LWG has revised Request No. 3 in a further good-faith attempt to work with EPA and resolve or mitigate the agency’s concerns. Request No. 3 is clarified in **Attachment A**.

#### *Request No. 5*

Your letter does not seek clarification of Request No. 5. *See* EPA Letter at 2. Instead, you assert only that one “phrase” in the request is “not a proper FOIA request.” *Id.* The LWG disagrees for the reasons explained in reply to your objection regarding Request No. 3. To be clear, the LWG is seeking the records described in Request No. 5 as they relate to the development of the FS and the development of “EPA’s expected approach to these matters in remedy selection and remedial design.” The LWG was not simply requesting “EPA’s expected approach to these matters in remedy selection and remedial design.” Request No. 5 expressly seeks agency “records,” and it is therefore a proper FOIA request.

Nonetheless, the LWG has revised Request No. 5 in a further good-faith attempt to work with EPA and resolve or mitigate the agency’s concerns. Request No. 5 is clarified in **Attachment A**.

#### *Request No. 6*

Your letter asks for clarification of a phrase in Request No. 6, as well as additional specificity. *Id.* Request No. 6 is clarified in **Attachment A**.

#### *Request No. 8*

Your letter does not seek clarification of Request No. 8. *See id.* Instead, you assert that Request No. 8 is seeking “conclusions rather than records,” and is therefore “not a proper FOIA request.” *Id.* The LWG disagrees for the reasons explained in reply to your objection regarding Request No. 3. Request No. 8 expressly seeks agency “records,” and it is therefore a proper FOIA request.

Nonetheless, the LWG has revised Request No. 8 in a further good-faith attempt to work with EPA and resolve or mitigate the agency's concerns. Request No. 8 is clarified in **Attachment A**.

## **II. Costs**

Your letter estimates that the cost to respond to the LWG's original request will be \$7,500.00. *Id.* You ask for "assurance of payment" for that amount prior to beginning your response efforts. *Id.* The LWG notes that it has clarified its original request, in response to your letter, and that these clarifications may narrow the scope of the request or otherwise facilitate a faster and more efficient response by EPA. As such, the LWG assumes that its clarifications will result in a less costly response by EPA. Nonetheless, the LWG hereby provides written assurance that it will cover up to \$10,000.00 in costs related to responding to the clarified FOIA request.

## **III. Timing**

Your letter provides notice that EPA believes there are "unusual circumstances" surrounding the LWG's FOIA request. *Id.* at 1. As such, you have estimated that responding to the original request will require an extension of the normal statutory response deadline from 20 business days to 12 months. *Id.* at 2. The statutorily-defined "unusual circumstances" that you identify are (1) the need to search for, collect, and appropriately examine a voluminous amount of responsive records demanded in a single request; and (2) the need to search for and collect responsive records from offices and entities that are separate from the office processing the request. *Id.*; see also 5 U.S.C. § 552(a)(6)(B).

To the extent EPA may view these alleged "unusual circumstances" as "exceptional circumstances" for purposes of 5 U.S.C. § 552(a)(6)(C), the LWG notes in advance that it has attempted and continues to attempt in good faith to modify the scope of its request and arrange for an alternative schedule for production of the records or the indexing of records deemed exempt from disclosure in order to ease the burden on the agency.

Specifically, representatives of the LWG met by phone with EPA staff and counsel on March 16, 2016 and, among other things, discussed the LWG's willingness to work with EPA to adjust the scope of the request or arrange for an alternative response timeframe. The LWG then made a number of concrete proposals to EPA in a letter dated March 18, 2016. See **Attachment B**. EPA rejected these proposals in a letter to the LWG dated March 23, 2016. **Attachment C**. As described above and reflected on **Attachment A**, the LWG is once again making a good-faith effort to work with EPA to reduce the burden on the agency of responding to this FOIA request.

With respect to your estimated response time frame of 12 months, it cannot be emphasized enough that the information sought in this FOIA request is critical to the LWG's ability to review adequately and provide meaningful comments on EPA's forthcoming Proposed

Plan, Feasibility Study (FS), and Record of Decision (ROD). While recognizing that the scope of its FOIA request is relatively broad, the LWG must point out that EPA is soon expected to propose a remedy for the Site that will cost LWG members and other potentially responsible parties as much as – or more than – two billion dollars. The LWG's FOIA request is not a fishing expedition or a delay tactic. The breadth of the request, and any corresponding burden on EPA, is certainly not disproportionate to the enormous complexity and economic impact of the agency's forthcoming actions on LWG members. As explained in the LWG's March 18, 2016 letter to EPA, "we are simply attempting to obtain information to support a very short deadline for review of the FS, to inform our comments on the proposed plan, and to ensure a complete administrative record for EPA's remedy selection." The LWG's need for EPA documents is made all the more critical – and urgent – because of the 14 day deadline for initiation of any dispute resolution proceedings on the final FS.

#### **IV. Conclusion**

Once again, we thank you for providing an opportunity to clarify and modify the LWG's FOIA request. We hope EPA will view the revised FOIA request as a good faith effort to work with the agency. As stated in the LWG's March 18, 2016 letter, we certainly remain open to other ideas EPA may have to facilitate its fulfillment of this request. It is the LWG's goal, first and foremost, to obtain information from EPA that is necessary to a robust review of the forthcoming Proposed Plan, FS, and ROD, and to the drafting of meaningful participatory comments on those EPA documents. We appreciate your prompt attention to the LWG's FOIA request.

Respectfully submitted,



Loren R. Dunn

on behalf of the Lower Willamette Group  
and each of its individual members.

# **Attachment A**



March 9, 2016 (REVISED April 4, 2016)

National Freedom of Information Officer  
United States Environmental Protection Agency  
Office of Environmental Information,  
Records, FOIA, and Privacy Branch  
1200 Pennsylvania Avenue NW (2822T)  
Washington, D.C. 20460

Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 10  
Office of Ecosystems, Tribal and Public Affairs  
1200 6th Avenue ETPA-124  
Seattle, WA 98101

**Re: Lower Willamette Group  
REVISED Freedom of Information Act Request  
Request No. EPA-R10-2016-004597  
Portland Harbor Superfund Site**

To Whom It May Concern:

This is a revised request for agency records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Specifically, this request concerns United States Environmental Protection Agency (EPA) records related to the Portland Harbor Superfund Site (Site) in Oregon. The purpose of submitting this revised request is to respond in good faith to EPA's March 24, 2016 request for clarification and modification of the original, March 9, 2016 request.

Throughout this request, the terms "agency records" and "records" are used interchangeably, and they are intended to have the broadest and most inclusive meaning possible under the FOIA. As such, the term "agency records" includes, but is not limited to, all documents, agreements, contracts, reports, analyses, memoranda, communications, emails, including email on personal accounts, transcripts, minutes, notes, bulletins, worksheets, schedules, calendars, drawings, photographs, renderings, figures, diaries, workpapers, presentations, data compilations, spreadsheets, databases, and communications created, received or obtained by EPA and under EPA's control at the time of this request. *See U.S. Dep't of Justice v. Tax Analysts*, 492 U.S. 136, 144-46 (1989).



Specifically, the terms “agency records” and “records” include, but are not limited to, all agency records in electronic, hard copy, or any other tangible or graphic format, however produced or reproduced, including audio or video recordings. “Communications” means any and all recorded communications within, to, or from EPA (and to or from EPA’s consultants and contractors working on the Site), including letters, electronic forms and submissions, emails, and text messages, including any attachment or enclosure included with the communication. “Communications” includes those communications generated by or contained on both government-issued and personal email accounts, computers, tablets, phones, and other electronic communication devices, whether or not sent or received under pseudonym or alias. “Communications” also includes any communications between EPA Region 10, EPA Headquarters (Headquarters), the Oregon Department of Environmental Quality (Oregon DEQ), and the U.S. Army Corps of Engineers (Corps). This request is for agency records of EPA as a whole, and it is therefore not limited to agency records of EPA Region 10.

On behalf of the Lower Willamette Group and its individual members (Arkema Inc., Bayer CropScience, Inc., BNSF Railway Company, City of Portland, Chevron U.S.A. Inc., Evraz Inc. NA, Gunderson LLC, Kinder Morgan Liquids Terminals, NW Natural, Phillips 66 Company, Port of Portland, Siltronic Corporation, TOC Holdings Co., and Union Pacific Railroad Company), I request copies of the following agency records:

1. From March 30, 2012 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA’s or its consultants’ methodology, analysis, quantification, and qualitative evaluation of (1) natural recovery rates, (2) use or non-use of models, projections, or forecasts of the estimated time to achieve cleanup goals at the Site, (3) cost effectiveness of alternative remedies for the Site (including the specific costs, and bases for those costs, for each alternative), (4) the long- and short-term effectiveness of alternative remedies at reducing risks to human health and the environment at the Site and the relative effectiveness of alternative remedies for the Site when compared to one another, and (5) impacts of Site dredging, and transport of Site contaminated material for off-site disposal, on local businesses and the Portland community.
2. From December 4, 2008 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA’s or its consultants’ development and application of Remedial Action Levels and Preliminary Remedial Goals for the Site, including, but not limited to, (1) risk assessments and any other methodology, analysis, quantification, or qualitative assessment of Remedial Action Levels and Preliminary Remedial Goals for the Site, and (2) records containing, discussing, or explaining EPA’s determination of reasonable maximum exposure scenarios (RMEs) for risk assessment at the Site.
3. From March 30, 2012 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA’s or its consultants’

consideration, evaluation, or use of risk management principles for purposes of developing the Site Feasibility Study (FS).

4. From March 30, 2012 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA's or its consultants' methodology, analysis, quantification, and qualitative assessments of (1) the Site-specific definition and application of "principal threat waste," (2) Site-specific requirements for treatment for "principal threat waste" or other remediation waste, (3) Site-specific application of RCRA land disposal restrictions to "principal threat waste" material or other remediation waste, and (4) the cost-effectiveness and risk reduction benefits of identification, treatment, and disposal of Site "principal threat waste" or other Site remediation waste.
5. From March 30, 2012 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA's or its consultants' methodology, analysis, quantification, and qualitative assessment of the Site with respect to decision trees, technology assignments, or process options used in developing the FS and designing, selecting, and implementing a Site remedy.
6. From March 30, 2012 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA's or its consultants' methodology, analysis, quantification, and qualitative assessments of the relationship between contaminated Site sediment, other contamination at the Site, and other contamination elsewhere in the Columbia River, including communications and correspondence about these issues between EPA Region 10, its consultants, EPA Headquarters, and the following: Oregon DEQ, Corps, Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and Nez Perce Tribe (including the staff, counsel, consultants and other representatives of these entities).
7. From March 30, 2012 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA's or its consultants' methodology, analysis, quantification, and qualitative assessments of the Site with respect to dredging production rates, construction time frames, and availability and location of potential transloading and disposal facilities.
8. From March 30, 2012 to the date of this revised FOIA request, all EPA Region 10 and Headquarters records containing, discussing, or explaining EPA's or its consultants' evaluation of whether and how the Site Remedial Investigation (RI) and FS, as well as the process and data used to develop those documents, comply with the National Contingency Plan and EPA sediment remediation guidance.

9. All EPA records related to the agency's November 18, 2015 presentations to the Contaminated Sediments Technical Advisory Group (CSTAG) and National Remedy Review Board (NRRB) regarding development of the RI, FS, and Proposed Plan for the Site, including comments received by EPA from any entity or person in response to EPA's presentations, as well as records of EPA's evaluation of and response to such comments, and communications to or from EPA regarding the presentation and such comments, including communications to and from Oregon DEQ, the Corps, the Portland Harbor Community Advisory Group, Willamette Riverkeeper, and other individuals and groups regarding the NRRB review.


If a given agency record is responsive to more than one individual request or is found in more than one location, EPA need not provide multiple copies or duplicates of the same record.

EPA need not provide a response to individually numbered queries in this FOIA request if it can and will certify to the LWG that all records responsive to a given query have already been provided to the LWG or are already publicly available. In general, the LWG is not requesting that EPA provide it with documents that have already been provided to the LWG or that are publicly available, so long as EPA identifies those records and, if they are publicly available, a location at which they can be obtained. In addition, consistent with past overtures and offers of the LWG, we remain open to working with EPA to revise the scope of this request or arrange for an alternative response time frame in exchange for reasonable conditions agreed to by the agency.

We will accept responsibility for the reasonable and necessary costs associated with EPA's response to this request, including reasonable standard charges for document searching and duplication, up to a maximum amount of \$10,000.00. See 5 U.S.C. § 552(a)(4)(A)(ii)(III); 40 C.F.R. § 2.102(d). If EPA determines that the reasonable and necessary costs of responding to this request will exceed \$10,000.00, please contact us as soon as possible to discuss payment. If for some reason copies of certain records cannot be made or provided, we request an opportunity to view and inspect those records.

We invite you to contact us as soon as possible to arrange for delivery of the agency records requested. In the meantime, we appreciate your prompt attention to this request, and look forward to your response.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Loren R. Dunn".

Loren R. Dunn, Esq.,

on behalf of the Lower Willamette Group  
and its above-named individual members.

cc: Lori Cora, U.S. EPA Region 10

# **Attachment B**



**Chairperson: Bob Wyatt, NW Natural**  
**Treasurer: Frederick Wolf, DBA, Legacy Site Services for Arkema**

*via electronic mail*  
March 18, 2016

Lori Cora  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 10, ORC-158  
1200 Sixth Avenue  
Seattle, WA 98101-3140

**Re: Lower Willamette Group Freedom of Information Request (Lower Willamette River,  
Portland Harbor Superfund Site, USEPA Docket No: CERCLA-10-2001-0240)**

Dear Lori:

As a follow up to our conversation on Wednesday, we are writing to confirm the willingness of the Lower Willamette Group and its members to work with EPA to avoid any delay in EPA's issuance of the Proposed Plan for Portland Harbor related to the LWG's March 9, 2016 request under the Freedom of Information Act. We want to reiterate that our intent in submitting the FOIA request on March 9 was to ensure that we would receive EPA's response in time to inform our decision about whether to initiate dispute resolution concerning the EPA's final Feasibility Study within the 14 day deadline following issuance of the Proposed Plan, which we understand EPA expects to release the week of April 4.<sup>1</sup> We did not intend to create any additional burden or delay for EPA; we are simply attempting to obtain information to support a very short deadline for review of the FS, to inform our comments on the proposed plan, and to ensure a complete administrative record for EPA's remedy selection.

To confirm the ideas we discussed on Wednesday, the LWG and its members are willing to do or accept any combination of the following to avoid impacting EPA's schedule:

- EPA has already provided information related to the August 2015 draft FS in response to our informal requests last fall. We are not requesting that EPA duplicate that production. If EPA can confirm that all non-exempt records concerning aspects of the August 2015 draft FS that will carry forward into the final FS have already been provided, we are willing to defer receipt of an index of exempt information until after issuance of the Proposed Plan, or even after issuance of the ROD. We understand from our conversation that EPA may not find this a helpful suggestion for certain technical reasons, and that EPA may in fact find it more burdensome not to duplicate information it has already provided. To the extent EPA finds some merit in this offer, however, the

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<sup>1</sup> This deadline was established in the February 4, 2016 settlement agreement between EPA and the LWG concerning EPA's January 4, 2016 takeover of the Portland Harbor FS.

LWG would also be willing to provide an index of the information we have received to date.

- The LWG is willing to negotiate with EPA an extension to the deadline for initiating dispute resolution on EPA's final FS to some later date within the public comment period on the Proposed Plan but after receipt of the records subject to the FOIA. If we could agree to extend this deadline, the LWG would withdraw the existing FOIA and submit a new FOIA after the Proposed Plan issues.
- The LWG is willing to work with EPA to identify a narrowed scope of information requests related to EPA's revisions to the August 2015 draft FS that would facilitate EPA providing at least some records prior to the current FS dispute deadline. As we understand it, EPA's preference would be for us to withdraw the existing FOIA and replace it with a new FOIA that, for example, focused on records generated after August 18, 2015. The LWG would then submit a more comprehensive FOIA after the Proposed Plan issues.
- We understand from our conversation with you that deferring the FOIA until after issuance of the Proposed Plan may trigger similar concerns about burdening EPA resources during and after the public comment period. As we explained during the call, we believe our best opportunity to ensure a complete administrative record in the event of any later judicial review is to have the agency's records available for review of the final FS and incorporation into our comments on the proposed plan. However, if EPA will stipulate that we can supplement the administrative record in any later judicial review, we would be willing to withdraw the existing FOIA request and submit a new FOIA request after EPA issues the Portland Harbor ROD.

We hope that EPA will consider these ideas, and we certainly remain open to other ideas EPA may have. Again, we are committed to working with EPA so that the scope and timing of this FOIA does not delay issuance of the Proposed Plan. We look forward to hearing from you.

Sincerely,

The Lower Willamette Group

A handwritten signature in black ink, appearing to be "Patty Dost" followed by a flourish and "Loren Dunn".

By Patty Dost and Loren Dunn

cc: Dennis McLerran, U.S. Environmental Protection Agency, Region 10  
Cami Grandinetti, U.S. Environmental Protection Agency, Region 10  
Jim Woolford, U.S. Environmental Protection Agency, EPA Headquarters

# **Attachment C**





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF  
REGIONAL COUNSEL

March 23, 2016

SENT BY EMAIL ONLY

Reply to  
Attn Of: ORC-113

Ms. Patty Dost  
Mr. Loren Dunn  
c/o The Lower Willamette Group  
421 SW Sixth Avenue, Suite 750  
Portland, Oregon 97204

RE: FOIA Request EPA-R10-2016-004597

Dear Ms. Dost and Mr. Dunn:

I am writing to respond to your March 18, 2016 letter sent on behalf of the Lower Willamette Group regarding its FOIA request, EPA-R10-2016-004597. Unfortunately, none of your proposals reduce the scope of the FOIA request nor the level of effort that searching, collecting, and reviewing the potentially responsive records will require of EPA, including both Region 10 and EPA Headquarters personnel.

EPA Region 10 will be in contact soon with the requester of record, Kathy Hipple, through FOIA Online regarding the status of this FOIA request.

If you want to discuss this matter, please call me at (206) 553-1115 or email me at [cora.lori@epa.gov](mailto:cora.lori@epa.gov).

Sincerely,

A handwritten signature in cursive script that reads "Lori Houck Cora".

Lori Houck Cora  
Assistant Regional Counsel

cc: Camille Harper, ECL FOIA Coordinator